

ALJ/BWM/avs

Decision 01-10-055 October 25, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEVEL 3 COMMUNICATIONS, LLC (U 5941 C)
Petition for Arbitration Pursuant to Section 252(b)
of the Communications Act of 1934, as amended
by the Telecommunications Act of 1996, for Rates,
Terms, and Conditions with Pacific Bell
Telephone Company (U 1001 C).

Application 00-04-037
(Filed April 20, 2000)

**OPINION GRANTING PETITION
FOR MODIFICATION OF DECISION 00-10-032**

1. Summary

Decision (D.) 00-10-032 required filing a conforming interconnection agreement (ICA) following arbitration. The parties subsequently filed by advice letter a negotiated ICA that varied from the arbitrated agreement. We grant the joint petition for modification of D.00-10-032, relieving the parties from the requirement to file a conforming interconnection agreement, and a statement that cross-references issues with relevant portions of the agreement.

2. Background

D.00-10-032 approved an arbitrated ICA between the parties. Ordering paragraph 2 directed that the ICA be signed and filed within 30 days. Ordering paragraph 3 required parties to jointly file a statement cross-referencing each issue resolved in D.00-10-032 with the relevant portion of the ICA, along with the ICA language which parties adopted in compliance with D.00-10-032.

Pursuant to Rule 48 of the Commission's Rules of Practice and Procedure, the Executive Director granted parties several extensions of time to comply with ordering paragraphs 2 and 3. Parties sought these extensions to complete negotiations on a single, uniform, comprehensive ICA covering several states, including California.

The uniform ICA was completed, and filed with the Commission through the advice letter process. (Rule 4.3 of Revised Rules Governing Filings Made Pursuant to the Telecommunications Act of 1996, Resolution ALJ-181.) Parties state that the negotiated ICA was filed by advice letter on March 13, 2001, became effective on May 24, 2001, and is effective through May 31, 2003.

Pursuant to the most recent extension, however, parties are still obligated to comply with ordering paragraphs 2 and 3 of D.00-10-032 by December 31, 2001. On June 20, 2001, parties jointly filed a petition for modification. Parties propose that they not be required to sign and file an ICA that conforms with the resolution of issues in D.00-10-032, and that they not be required to file the statement demonstrating compliance. No responses to the petition for modification have been filed.

3. Discussion

Parties state that some portions of the negotiated ICA conform with D.00-10-032, but other parts represent mutually agreeable terms negotiated after the Commission's decision. Parties assert that requiring parties to file an ICA that conforms with D.00-10-032, plus an accompanying statement, would only result in unnecessary expenditures of time and resources, and generate confusion as to which ICA governs parties in California. We agree.

Moreover, the public had the opportunity to protest the negotiated ICA, and no protests were filed. (Rule 4.3.2 of Revised Rules Governing Filings Made

Pursuant to the Telecommunications Act of 1996, Resolution ALJ-181.) Further, no responses to the petition for modification were filed. There is no known objection to granting the requested relief.

A negotiated ICA is in place, and is effective through May 31, 2003. No purpose would be served by requiring parties to comply with ordering paragraphs 2 and 3 of D.00-10-032.

4. Waiver of Period for Public Review and Comment

This is an uncontested matter where the decision grants the requested relief. As a result, we waive the period for public review and comment on the proposed decision. (Rule 77.7(f)(2) of the Commission's Rules of Practice and Procedure.)

Findings of Fact

1. A negotiated ICA is in place, and is effective through May 31, 2003.
2. Some portions of the negotiated ICA conform with D.00-10-032, but other parts represent mutually agreeable terms negotiated after D.00-10-032.
3. No purpose would be served by requiring parties to file an ICA which conforms with D.00-10-032, along with an accompanying statement.
4. The petition for modification is uncontested.

Conclusions of Law

1. The petition for modification should be granted.
2. The period for public review and comment of the proposed decision should be waived.
3. This order should be effective today to eliminate confusion about which ICA governs parties in California, and because it is in the public interest to implement national telecommunications policy as accomplished through the negotiated ICA as soon as possible.

O R D E R

IT IS ORDERED that:

1. The June 20, 2001 joint petition for modification is granted as provided herein, and denied in all other respects.
2. Ordering paragraph 2 of Decision (D.) 00-10-032 is deleted and replaced with:

“2. The requirement that parties sign, file and serve an ICA that conforms with the decision in the FAR and this order is waived in recognition that (a) parties filed a negotiated ICA on March 13, 2001, (b) no protests were filed, (c) the ICA became effective on May 24, 2001, and (d) the negotiated ICA is effective through May 31, 2003.”
3. Ordering paragraph 3 of D.00-10-032 is deleted.
4. This proceeding is closed.

This order is effective today.

Dated October 25, 20001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners